

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 983**

---

**Introduced by Assembly Member Melendez**

February 22, 2013

---

An act to amend Sections 21701, 21702.5, 21703, 21705, 21706, 21710, and 21713 of the Business and Professions Code, relating to self-service storage facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Melendez. Self-service storage facilities.

Existing law, the California Self-Service Storage Facility Act, specifies remedies and procedures for self-service storage facility owners when occupants are delinquent in paying rent or other charges. Under existing law, if rent or other charges due from an occupant remain unpaid for 14 consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a preliminary lien notice by certified mail to the occupant's address. After sending a notice, the owner may, within 14 days of the termination date specified in the preliminary lien notice, deny the occupant access to the space, enter the space, and remove property to safekeeping. Existing law specifies procedures for an owner to enforce the lien following receipt of a declaration in opposition to a lien sale. Existing law provides that an owner may sell the property subject to lien if the occupant cannot be contacted or served at the address provided in the declaration.

This bill would delete the 14-day period, and would, instead, allow an owner to deny the occupant access to the space, enter the space, and remove property to safekeeping *if the total sum has not been paid* by the termination date specified in the preliminary lien notice. *The bill would allow the owner to send the preliminary lien notice by electronic mail if specified conditions are met.* This bill would allow an owner to have a vehicle, watercraft, or trailer, subject to lien, towed from the premises if rent and other charges have not been paid for 60 days and the required notice has been sent, *and would revise the time period within which that notice is to be sent.* This bill would make technical changes to the declaration in opposition to lien sale, as specified. ~~This bill would remove the provision allowing an owner to sell the property subject to lien if the occupant cannot be contacted or served at the address provided in the declaration. This bill would specify that an occupant has 30 days from the date of the owner's receipt of the declaration in opposition to lien sale to serve the owner and file a complaint in a court of competent jurisdiction, otherwise the owner may enforce the lien and sell the goods.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 21701 of the Business and Professions  
2     Code is amended to read:  
3     21701. For the purposes of this chapter, the following terms  
4     shall have the following meanings:  
5     (a) "Self-service storage facility" means real property designed  
6     and used for the purpose of renting or leasing individual storage  
7     space to occupants who are to have access to the space for the  
8     purpose of storing and removing personal property or for storing  
9     individual storage containers provided to occupants who have  
10    exclusive use of the container for the purpose of storing and  
11    removing personal property, whether or not the individual storage  
12    containers are transported pursuant to Section 21701.1. Self-service  
13    storage facility does not include a garage or other storage area in  
14    a private residence. No occupant may use a self-service storage  
15    facility for residential purposes. A self-service storage facility is  
16    not a warehouse, nor a public utility, as defined in Section 216 of  
17    the Public Utilities Code. If an owner issues a warehouse receipt,

1 bill of lading, or other document of title for the personal property  
2 stored, the owner and the occupant are subject to the provisions  
3 of Division 7 (commencing with Section 7101) of the Commercial  
4 Code, and the provisions of this chapter do not apply.

5 (b) "Owner" means the owner, operator, lessor, or sublessor of  
6 a self-service storage facility, his or her agent, or any other person  
7 authorized by him or her to manage the facility, or to receive rent  
8 from an occupant under a rental agreement, and no real estate  
9 license is required.

10 (c) "Occupant" means a person, or his or her sublessee,  
11 successor, or assign, who is entitled to the use of the storage space  
12 at a self-service storage facility under a rental agreement, to the  
13 exclusion of others.

14 (d) "Rental agreement" means any written agreement or lease  
15 which establishes or modifies the terms, conditions, rules, or any  
16 other provision concerning the use and occupancy of a self-service  
17 storage facility.

18 (e) "Personal property" means movable property not affixed to  
19 land, and includes, but is not limited to, goods, merchandise,  
20 furniture, and household items.

21 (f) "Last known address" means that *postal address or electronic*  
22 *mail* address provided by the occupant in the latest rental  
23 agreement, or the *postal address or electronic mail* address  
24 provided by the occupant in a subsequent written notice of a change  
25 of address.

26 **SECTION 1.**

27 *SEC. 2.* Section 21702.5 of the Business and Professions Code  
28 is amended to read:

29 21702.5. (a) Any lien on a vehicle or vessel subject to  
30 registration or identification under the Vehicle Code that has  
31 attached and is set forth in the documents of title to the vehicle or  
32 vessel shall have priority over any lien created pursuant to this  
33 chapter.

34 (b) Any lien created pursuant to this chapter on a vehicle or  
35 vessel subject to registration or identification under the Vehicle  
36 Code shall be enforced in accordance with Section 3071 of the  
37 Civil Code, in the case of a vehicle, or Section 503 of the Harbors  
38 and Navigation Code, in the case of a vessel, and not as prescribed  
39 in Sections 21705 to 21711, inclusive.

(c) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall not include any charges for rent, labor, or other services incurred pursuant to the rental agreement, accruing more than 60 days after the date the lien imposed pursuant to this chapter attaches, as set forth in Section 21705, and before application is made for authorization to conduct the lien sale pursuant to the requirements of Section 3071 of the Civil Code or Section 503 of the Harbors and Navigation Code.

(d) Any proceeds from a lien sale shall be disposed of pursuant to Section 3073 of the Civil Code, in the case of a vehicle, or Section 507.5 of the Harbors and Navigation Code, in the case of a vessel.

(e) In addition to the right to foreclose on the vehicle, watercraft, or trailer, the owner may have the vehicle, watercraft, or trailer towed from the premises if rent and other charges have not been paid for 60 days and the notice required in Section 21703 has been sent. ~~Not less than five days after~~ *10 days before* having the vehicle towed, the owner shall send notice by first-class mail with certificate of mailing to the occupant's last known address, *or by electronic mail to the occupant's last known electronic mail address*, stating the name, address, and telephone number of the towing company and the street address of the location where the towed property can be redeemed. When the towing company takes possession of the vehicle, watercraft, or trailer, the owner shall not be liable for the property or damage to the property. *The towing company shall be in compliance with Section 12520 of the Vehicle Code, and shall act in accordance with Section 22658 of the Vehicle Code in removing the property.*

SEC. 3. *Section 21703 of the Business and Professions Code is amended to read:*

21703. (a) If any part of the rent or other charges due from an occupant remain unpaid for 14 consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a notice to the occupant's last known *postal address or electronic mail address* and to the alternative *postal address or electronic mail address* specified in subdivision (b) of Section 21712. ~~The~~

(b) *The* notice shall be sent by certified mail, postage prepaid, or by regular first-class mail if the owner obtains a certificate of

1 mailing indicating the date the notice was mailed *or by electronic*  
2 *mail*. The notice shall contain all of the following:

3 ~~(a)~~

4 (1) An itemized statement of the owner's claim showing the  
5 sums due at the time of the notice and the date when the sums  
6 became due.

7 ~~(b)~~

8 (2) A statement that the occupant's right to use the storage space  
9 will terminate on a specified date (not less than 14 days after the  
10 mailing of the notice) unless all sums due are paid by the occupant  
11 prior to the specified date.

12 ~~(c)~~

13 (3) A notice that the occupant may be denied access to the  
14 storage space after the termination date if the sums are not paid  
15 and that an owner's lien, as provided for in Section 21702, may  
16 be imposed thereafter.

17 ~~(d)~~

18 (4) The name, street address, and telephone number of the owner  
19 or his or her designated agent whom the occupant may contact to  
20 respond to the notice.

21 *(c) The owner shall not send the notice required by this section*  
22 *by electronic mail to the occupant's last known address or*  
23 *alternative address unless all of the following occur:*

24 *(1) The occupant expressly agrees to notice by electronic mail.*

25 *(2) The rental agreement executed by the occupant specifies in*  
26 *bold type that notices will be given to the occupant by electronic*  
27 *mail.*

28 *(3) The owner provides the occupant with the electronic mail*  
29 *address from which notices will be sent and directs the occupant*  
30 *to modify his or her electronic mail settings to allow electronic*  
31 *mail from that address to avoid any filtration systems.*

32 *(4) The owner notifies the occupant of any change in the*  
33 *electronic mail address from which notices will be sent prior to*  
34 *the address change.*

35 ~~SEC. 2.~~

36 *SEC. 4.* Section 21705 of the Business and Professions Code  
37 is amended to read:

38 21705. (a) If the notice has been sent as required by Section  
39 21703 and the total sum due has not been paid by the termination  
40 date specified in the preliminary lien notice, the lien imposed by

1 this chapter attaches as of that date and the owner may do all of  
2 the following:

3 (1) Deny an occupant access to the space.

4 (2) Enter the space.

5 (3) Remove any property found therein to a place of safekeeping.

6 (b) Upon taking the actions described in subdivision (a), the  
7 owner shall send to the occupant, *by certified mail, or by first-class*  
8 *mail if the owner obtains a certificate of mailing, postage prepaid,*  
9 *or by electronic mail,* addressed to the occupant's last known  
10 address, and to the alternative address specified in subdivision (b)  
11 of Section 21712, ~~by certified mail or by first-class mail, if the~~  
12 ~~owner obtains a certificate of mailing, postage prepaid,~~ both of the  
13 following:

14 (1) A notice of lien sale that states all of the following:

15 (A) That the occupant's right to use the storage space has  
16 terminated and that the occupant no longer has access to the stored  
17 property.

18 (B) That the stored property is subject to a lien, the current  
19 amount of the lien, and that the lien will continue to increase if  
20 rent is not paid.

21 (C) That the property will be sold to satisfy the lien after a  
22 specified date that is not less than 14 days from the date of mailing  
23 the notice, unless the occupant executes and returns by certified  
24 mail a declaration in opposition to lien sale in the form set forth  
25 in paragraph (2).

26 (D) A statement that the occupant may regain full use of the  
27 space by paying the full lien amount prior to the date specified in  
28 subparagraph (C).

29 (E) That any excess proceeds of the sale over the lien amount  
30 and costs of sale will be retained by the owner and may be  
31 reclaimed by the occupant or claimed by another person at any  
32 time for a period of one year from the sale and that thereafter the  
33 proceeds will escheat to the county in which the sale is to take  
34 place.

35 (2) A blank declaration in opposition to lien sale that shall be  
36 in substantially the following form:

37  
38 ~~DECLARATION~~ "DECLARATION IN OPPOSITION TO LIEN SALE  
39

1 —If you return this form to the self-service storage facility where your property  
2 is stored, you may file suit in any court with jurisdiction of matters in the  
3 amount of the lien (this may be small claims court). The suit must be filed  
4 within 21 days of returning this declaration in the jurisdiction where you live  
5 or where the self-service storage facility is located or your property may be  
6 sold.

7 *You must complete all sections of this declaration. If the owner cannot contact*  
8 *or serve you at the physical address and telephone number that you provide*  
9 *below, this declaration shall be void and the owner may sell your stored*  
10 *property.*

11  
12 I, \_\_\_\_\_, have received the notice of lien sale  
13 (occupant's name)  
14 of the property stored at \_\_\_\_\_ .  
15 (location and space #)

16 I oppose the lien sale of the property, because (provide a brief explanation  
17 of the reason why your property should not be sold):  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 My current address and telephone number are:

22 ~~(address)~~ (physical address) \_\_\_\_\_  
23 (city) \_\_\_\_\_  
24 (state) \_\_\_\_\_  
25 (ZIP Code) \_\_\_\_\_  
26 (telephone number) \_\_\_\_\_

27 I understand that I must file a lawsuit for a hearing on the validity of the lien  
28 no later than 21 days after returning this declaration in opposition to lien sale.  
29 If I do not file suit and serve the self-service storage facility where my property  
30 is stored, my property may be advertised for sale and sold by the self-service  
31 storage facility owner.

32 I declare under penalty of perjury that the foregoing is true and correct, and  
33 that this declaration was signed by me on \_\_\_\_\_ at \_\_\_\_\_ .  
34 (date) (place)

35 \_\_\_\_\_ .  
36 (signature of occupant)

37 Return this declaration to:

38 (self-service storage facility ~~address~~ address)"  
39

1     (c) *If the owner sends the notice required under subdivision (b)*  
2     *to the occupant's last known electronic mail address and does not*  
3     *receive a reply or receipt of delivery, the owner shall send a second*  
4     *notice to the occupant's last known postal address by certified*  
5     *mail, or by first-class mail if the owner obtains a certificate of*  
6     *mailing, postage prepaid.*

7     ~~SEC. 3.~~

8     SEC. 5. Section 21706 of the Business and Professions Code  
9     is amended to read:

10    21706. If a declaration in opposition to the lien sale, executed  
11    under penalty of perjury, is not received by the owner on or prior  
12    to the date specified in the notice of lien sale by certified mail, is  
13    not completed and signed by the occupant, or if the occupant  
14    withdraws the declaration in opposition to the lien sale in writing,  
15    the owner may, subject to Sections 21708 and 21709, sell the  
16    property upon complying with the requirements set forth in Section  
17    21707.

18    ~~SEC. 4. Section 21710 of the Business and Professions Code~~  
19    ~~is amended to read:~~

20    ~~21710. If a declaration in opposition to lien sale is received by~~  
21    ~~the owner prior to the date set forth in the notice of lien sale, the~~  
22    ~~owner may enforce the lien as follows:~~

23    ~~(a) The owner shall not sell the property for 30 days from the~~  
24    ~~date of the receipt of the declaration in opposition to the lien sale.~~

25    ~~(b) If the occupant files a complaint in any court of competent~~  
26    ~~jurisdiction and serves the owner within 30 days of the owner's~~  
27    ~~receipt of declaration in opposition to lien sale, the owner shall~~  
28    ~~not sell the goods until the court issues a judgment on the~~  
29    ~~occupant's complaint in favor of the owner's lien.~~

30    ~~(c) If the occupant does not serve the owner within 30 days of~~  
31    ~~sending the declaration in opposition to lien sale or the owner is~~  
32    ~~granted a judgment on the lien, the owner may advertise the goods~~  
33    ~~for sale and sell the property as provided by Section 21707.~~

34    ~~SEC. 5.~~

35    SEC. 6. Section 21713 of the Business and Professions Code  
36    is amended to read:

37    21713. This chapter shall not be construed to impair or affect  
38    the right of the parties to create additional rights, duties, and  
39    obligations in and by virtue of the rental agreement, including, but  
40    not limited to, the right to limit the value of the property the



- 1 occupant may store in the storage space or the right to limit the
- 2 occupant's right to enter the premises or storage space. The rights
- 3 provided by this chapter shall be in addition to all other rights
- 4 provided by law to a creditor against his or her debtor.

O